

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the above amendments and the following remarks.

Claims 1, 3, 7 and 8 have been amended. Claims 2 and 4 have been canceled without prejudice. Claims 1, 3, and 5-10 are submitted for reconsideration on their merits.

I. SUMMARY OF OFFICE ACTION

The Examiner objected to the drawings under 37 CFR § 1.84(p)(5) because the drawings include reference characters not mentioned in the description.

The Examiner objected to the drawings under 37 CFR § 1.83(a) because the Examiner believes that the claims specify features that are not shown in the drawings.

The Examiner objected to Claim 8 for lack of antecedent basis for the element “the mouthpiece.”

The Examiner objected Claim 7 because the Examiner believes that the use of the term “and/or” renders the claim vague and indefinite.

The Examiner rejected Claims 1-3 and 5-10 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,301,666 to Lerk et al.

The Examiner has objected to Claim 4 because it is dependent upon a rejected base claim but indicated that it would be allowable if rewritten in independent form.

IN THE DRAWINGS

Kindly add new Figure 7 as enclosed herewith.

II. SUMMARY OF APPLICANT'S INVENTION

The present invention is an inhaler that includes more than one drug storage chamber in order to disperse controlled doses of more than one drug.

III. ART REJECTIONS

Applicant acknowledges the Examiner's indication that Claim 4 would be allowable if written in independent form. Applicant merged Claim 4 (and intervening Claim 2) into Claim 1 and believes that Claim 1 is now in condition for allowance. Moreover, it is believed that all claims that depend directly or indirectly from Claim 1 (i.e., Claims 3 and 4-7) are also in condition for allowance.

Applicant respectfully submits that the '666 patent to Lerk does not disclose a plurality of passageway channels, said air passageway channels communicating with both the dosing wells and said outlet of the mouthpiece to define multiple air passageways for delivering said withdrawn medication during a single inhalation activity/event as claimed in Claim 8.

In addition, Applicant discloses the use of a single rotatable disk to determine the dosing amount. Applicant can manipulate the number of medicaments delivered by increasing the number of rotatable disks or increasing the number of wells on the single disc. Although Lerk uses the term "disk" to describe his dosage chambers, Lerk does not disclose a disk (the term "disk" is defined as a "thin, flat circular plate" by THE AMERICAN HERITAGE DICTIONARY). As illustrated in Figure 10, Lerk actually uses reels or wheels that have a significant depth.

Further, Lerk does not deliver multiple medicaments in a single, inhalation event as permitted by Applicant's claimed inhaler. Lerk requires that the patient inhale a first dose from one of the dosage chambers 12 and mechanically turn the dosage chambers 12 in order to properly position the dosage chamber for the second or subsequent inhalation events. *See* Column 5, lines 51-61. As such, Lerk does not disclose, suggest or teach an inhaler that mixes different medicaments in the mouthpiece, but requires separate inhalation events to deliver multiple medicaments at different times.

Lerk does not disclose a SINGLE rotatable disc that controls the amount of the medicament dose as claimed by Applicant, but requires a dosing wheel 12 for each medicament.

As clearly indicated in the title, Lerk can only deliver "powdered" medicaments. However, Applicant's inhaler, by virtue of its unique design, can deliver medicaments that are in powder, liquid, aerosol or mist form.

In view of the above, Applicant respectfully submits that Lerk not only fails to anticipate Applicant's claimed invention, it cannot make Applicant's inhaler obvious. Therefore, Applicant's Claims 8-10 are believed to be patentable over Lerk.

IV. NON-ART MATTERS

Applicant has amended page 14 by properly identifying the housing and pressurized chamber by their respective reference numerals 58 and 59.

Applicant respectfully requests permission to add Figure 7 which shows a pressurized cartridge. A pressurized cartridge is clearly disclosed in the description and claims and is not

new matter. Applicant has amended the section titled BRIEF DESCRIPTION OF THE DRAWINGS by including a reference to Figure 7 and inserted reference numeral 70 on page 9.

The drawing objection under 37 CFR 1.83(a) has been addressed since both a “pressurized chamber 59” and a “pressurized cartridge 70” are shown in the drawings.

Applicant has amended Claim 7 by deleting the term “and/” and believes that the claim is no longer indefinite.

Applicant has amended Claim 8 by including a mouthpiece as part of the outlet of the inhaler; accordingly, Applicant believes that it has addressed the lack of antecedent basis objection raised by the Examiner.

V. CONCLUSION

Applicant believes it has addressed all of the objections/rejections raised by the Examiner in the outstanding Office Action.

Applicant wishes to thank the Examiner for the explanation and indication of allowable subject matter in Claim 4.

Lerk does not disclose, suggest or teach an inhaler that utilizes a disk. Even if Lerk’s dosage chambers can be classified as “disks”, Lerk does not disclose, teach or suggest an inhaler that utilizes a single disk to deliver multiple medicaments. Lerk requires a separate disk for each medicament. Lerk does not disclose, suggest or teach an inhaler that mixes the medicament in the mouthpiece. Accordingly, Lerk cannot disclose or make obvious Applicant’s invention as claimed in Claims 8-10.

Applicant respectfully requests reconsideration of the present application in view of the above amendments and remarks, and the early issuance of a Notice of Allowance for claims 1, 3 and 5-10.

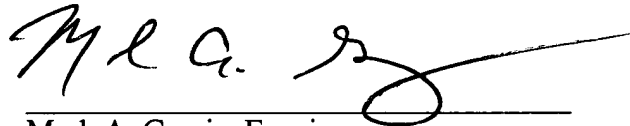
Should the Examiner have any questions regarding the allowability of any claim, he is invited to telephone the undersigned in order to expedite the examination of the subject application.

Respectfully submitted,

Kenneth A. Alley

Date:

2 MAY 2005



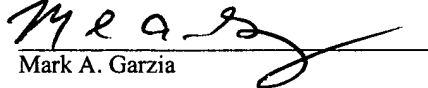
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CERTIFICATE OF MAILING

I hereby certify that this communication, along with any paper or fee indicated as being enclosed, is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to: Mail Stop - AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

2 MAY 2005

Date


Mark A. Garzia